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## Periodic Review / Retain Regulation Agency Background Document

<b>Agency name</b>	Department of Mines, Minerals and Energy
<b>Virginia Administrative Code (VAC) citation</b>	4VAC25-35
<b>Regulation title</b>	Certification Requirements for Mineral Miners
<b>Document preparation date</b>	April 14, 2009

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 36 (2006) and 58 (1999).

### Legal basis

*Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.*

The Department of Mines, Minerals and Energy (DMME) is authorized to promulgate regulations necessary to the performance of its duties under §45.1-161.3 of the Code of Virginia. §§45.1-161.294 and 45.1-161.305 require that the Director promulgate regulations to ensure safe working conditions and practices at underground and surface mineral mines, respectively. This authority is mandatory. §45.1-161.292:19 authorizes the Board of Mineral Mining Examiners to require certification of persons working in mineral mines.

### Alternatives

*Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.*

The Department considered the alternative of repealing the regulation, but determined that the regulation is still needed to protect public safety, health, and welfare. The agency also considered the alternative of amending the regulation, but determined that no amendments are necessary at this time.

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

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DMME received no public comment in response to the Notice of Periodic Review published in *The Virginia Register of Regulations*. Parties who have indicated an interest in this regulation were notified by email of the periodic review. The proposed regulation was reviewed internally by DMME and by the Board of Mineral Mining Examiners. The agency did not form an advisory group to assist in the periodic review based upon perceived lack of controversy and public interest.

**Effectiveness**

*Please indicate whether the regulation meets the criteria set out in Executive Order 36, e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.*

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DMME has determined that the regulation is necessary for the protection of public health, safety, and welfare. The agency interprets the lack of public comment to indicate satisfaction with the regulation, the manner of implementation, clarity and ease of comprehension, and the effectiveness of the regulation.

**Result**

*Please state that the agency is recommending that the regulation should stay in effect without change.*

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The Department of Mines, Minerals and Energy recommends that that this regulation stay in effect without change.

**Family impact**

*Please provide an analysis of the regulation's impact on the institution of the family and family stability.*

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The purpose of this regulation is to assure that persons working in mineral mines in the Commonwealth have the competency, skill and knowledge necessary to perform their duties consistent with the health and safety of persons and property. By assuring the safety of workers, this regulation enhances the stability of families with members working in mineral mines.